IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 1ST OCTOBER 2007 / 9TH ASWINA 1929

Bail Appl..No. 5906 of 2007()

CRLMC.1311/2007 of DISTRICT COURT, THALASSERY
CRIME NO.252/07 OF IRITTY POLICE STATION

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: PETITIONER/ACCUSED

K.V.BIJU, S/O.K.N.VASUDEVAN,
RADIOGRAPHER, KIZHAKKEPURAKKAL HOUSE,
KELAKAM P.O., THALASSERY TALUK.

BY ADV. SRI.CIBI THOMAS

RESPONDENTS: COMPLAINANT/STATE

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1. THE SUB INSPECTOR OF POLICE,
IRITTY POLICE STATION.

2. STATE REP. BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.S.U.NAZAR

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 01/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

B.A.No.5906 of 2007

Dated this the 1st day of October, 2007

ORDER

Application for anticipatory bail. The petitioner faces allegations inter alia, under Section 498 A I.P.C. The crime has been registered on the basis of a private complaint filed by the defacto complainant/wife of the petitioner before the learned Magistrate and referred by the learned Magistrate to the police under Section 156(3) Cr.P.C. Investigation is in progress. The petitioner apprehends imminent arrest.

2. The marriage took place on 16.01.05. Spouses are not blessed with any children. There is strain in the matrimonial tie. Because of such strain, exaggerated and fanciful allegations are being raised against the petitioner by his wife, submits the learned counsel for the petitioner. Both the petitioner and his wife are employed in Pariyaram Medical College, submits the learned counsel for the petitioner.

3. The learned Public Prosecutor does not oppose the application for anticipatory bail. The learned Public Prosecutor submits that he is not opposing the application for fear that arrest and

incarceration of the petitioner, may close the doors of any possibility of harmonious settlement of the disputes between them. Appropriate conditions may be imposed, submits the learned Public Prosecutor . The learned Public Prosecutor further points out that the case diary shows that on an earlier occasion, ie. in September, 2006, there was an incident in which the defacto complainant complained of injuries before the Doctor consequent to the alleged assault by the petitioner herein. It is true that subsequently they have admittedly been living together.

4. Having considered all the relevant circumstances, I am satisfied, that the petitioner can be granted anticipatory bail, but subject to very strict and appropriate conditions.

5. In the result, the Bail Application is, allowed. The following directions are issued under Section 438 Cr.P.C.

i) The petitioner shall appear before the learned Magistrate at 11 a.m on 08.10.2007. He shall be enlarged on regular bail on his executing a bond for Rs.25,000/- (Rupees Twenty Five thousand only) with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate;

ii) The petitioner shall make himself available for interrogation before the Investigating Officer between 10 a.m and 5 p.m

on 09.10.2007 and 10.10.2007 and thereafter between 10 a.m and 12 noon on all Mondays and Fridays for a period of two months. Subsequently the petitioner shall make himself available for interrogation before the Investigating Officer as and when directed by the Investigating Officer in writing to do so;

iii) If the petitioner does not appear before the learned Magistrate as directed in clause (i), directions issued above shall thereafter stand revoked and the police shall be at liberty to arrest the petitioner and deal with him in accordance with law as if those directions were not issued at all;

iv) If the petitioner were arrested prior to his surrender on 08.10.07 as directed in clause (1) above, he shall be released from custody on his executing a bond for Rs.25,000/- (Rupees Twenty Five thousand only) without any sureties undertaking to appear before the learned Magistrate on 08.10.07.

(R.BASANT, JUDGE)

rtr/-